

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT**

United States Court of Appeals  
Fifth Circuit

**FILED**

December 2, 2009

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No. 08-61090  
Summary Calendar  
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Charles R. Fulbruge III  
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

ALONZO LEE MURPHY, JR.,

Defendant-Appellant

\_\_\_\_\_  
Appeal from the United States District Court  
for the Southern District of Mississippi  
USDC No. 3:01-CR-94  
\_\_\_\_\_

Before DAVIS, SMITH, and DENNIS, Circuit Judges.

PER CURIAM:\*

Alonzo Lee Murphy, Jr., Federal prisoner # 06502-043, was convicted in 2002 of aiding and abetting bank robbery and of aiding and abetting the brandishing of a firearm during a crime of violence. After the conviction was affirmed on direct appeal, he did not seek relief under 28 U.S.C. § 2255. Instead, in November 2008, he filed a Federal Rule of Civil Procedure 60(b)(6) motion seeking to vacate his convictions and sentences on due process grounds. The

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\* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

district court denied relief without providing reasons. Murphy has appealed.

We are unable to discern whether the district court construed Murphy's pleading as sounding under Rule 60(b) or 28 U.S.C. § 2255 and also unable to determine the basis on which the court denied relief. Rather than speculate on the district court's reasoning, we hold the appeal in abeyance and remand the matter to the district court for the entry of reasons consistent with this opinion.

APPEAL HELD IN ABEYANCE; LIMITED REMAND.